

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of a Petition by
Peoples Natural Gas Company
And Northern Minnesota Utilities,
Divisions of UtiliCorp United, Inc.,
For Authority to Increase Natural Gas
Rates in Minnesota and to Consolidate
The Two Utilities

PREHEARING ORDER

The above-entitled matter came on for a Prehearing Conference, pursuant to notice, on October 11, 2000, in St. Paul, before Richard C. Luis, Administrative Law Judge for the Office of Administrative Hearings.

Appearances at the prehearing conference were as follows:

Michael J. Bradley, Attorney at Law, Moss and Barnett, 4800 Wells Fargo Center, 90 South Sixth Street, Minneapolis, Minnesota, 55402, appeared for and on behalf of Peoples Natural Gas Company and Northern Minnesota Utilities.

Virginia Zeller, Assistant Attorney General, 525 Park Street, Suite 200, St. Paul, Minnesota, 55103, appeared for and on behalf of the Department of Commerce.

Curt Nelson, Financial Analyst, 900 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota, 55101, appeared for and on behalf of the OAG/RUD.

Lon Stanton, Government Affairs Manager, 1650 West 82nd Street, Suite 1250, Minneapolis, Minnesota, 55431, appeared for and on behalf of Northern Natural Gas Company.

Linda Hendrickson, Minnesota Power, 30 West Superior Street, Duluth, Minnesota, 55722, appeared for and on behalf of Minnesota Power.

Robert Harding, Jerry Dasinger and Clark Kaml participated as members of the Commission Staff.

Discussion was held among the participants who took part in the Prehearing Conference, and having considered all the arguments and

comments, the Administrative Law Judge makes the following Prehearing Order.

INTERVENORS

1. Based either upon their Petitions in Intervention or upon their statutory interest in the proceeding, the following are each made a party to this case as an Intervenor: Department of Commerce, Office of Attorney General's Residential Utilities Division, Northern Natural Gas, and LPI Group^[1]

2. The final date for intervention is November 15, 2000.

Any person allowed to intervene in this proceeding after the date of this Order shall be bound by the terms of this Order.

SCHEDULE

The following Schedule is adopted and, except when modified by Order of the Administrative Law Judge, shall govern this proceeding:

3. Intervention deadline – November 15, 2000.

4. Intervenor's direct testimony filed – December 13, 2000.

5. Rebuttal testimony filed – January 12, 2001.

6. Surrebuttal testimony filed – January 26, 2001.

7. Evidentiary hearings begin on January 31, at 9:00 AM, in the Commission's Large Hearing Room, 121 Seventh Place East, Suite 350, St. Paul, Minnesota.

8. Public hearings to receive the testimony of the public and ratepayers shall be held on dates, times and places to be announced once they are arranged.

9. The parties shall submit Briefs and are encouraged to submit proposed Findings of Fact and Conclusions, all appropriately referenced to the official record, at such times after the close of the evidentiary hearings as shall be directed by the Administrative Law Judge.

PROCEDURE

10. The Rules of the Office of Administrative Hearings shall govern the conduct of the hearings herein.

11. The hearing shall be conducted in accordance with the schedule herein established unless otherwise determined by the Administrative Law Judge.

FILING OF DOCUMENTS

12. All direct testimony sponsored by all parties shall be filed in writing with the Administrative Law Judge and shall be received by the parties in accordance with the schedule herein. All prefiled testimony shall be in question and answer format.

13. All documents filed, including prefiled testimony, but excluding information requests and responses, shall be filed as follows:

a. Prior to the issuance of the Report of the Administrative Law Judge, the original document and one copy shall be delivered or mailed to:

Allan W. Klein
Administrative Law Judge
Office of Administrative Hearings
100 Washington Square, Suite 1700
100 Washington Avenue South
Minneapolis, Minnesota 55401-2138

b. Fifteen (15) copies shall be filed with the Commission Secretary for distribution among Commissioners and Commission staff. The copies shall be delivered or mailed to:

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
350 Metro Square
121 Seventh Place East
St. Paul, Minnesota 55101

c. One (1) copy of each such document shall be served personally or by mail on Virginia Zeller and four (4) copies shall be served personally or by mail on Kathy Brengman as follows:

Kathy Brengman
Minnesota Department of Commerce
200 Metro Square
121 Seventh Place East
St. Paul, Minnesota 55101

d. Except as herein provided, one (1) copy shall be served personally or by mail on the attorney of record for each party, or, if there is no attorney, upon the party.

e. One (1) copy of each of such document shall be served personally or by mail on:

Janet Shaddix Elling
Shaddix and Associates
9100 West Bloomington Freeway, Suite 122
Bloomington, MN 55431

f. A service list is attached hereto as Exhibit A and made a part hereof. Service of documents in the numbers required by this Order shall be made according to such service list.

g. Following the Report of the Administrative Law Judge, original documents shall be filed with the Secretary of the Commission. No copy need be filed with the Office of Administrative Hearings.

h. The dates set forth in the preceding schedule are actual delivery dates. Delivery may be accomplished by hard copy, facsimile, or e-mail. For matters not covered in the preceding schedule, the effective date of filing shall be the date the document is mailed or delivered to the Administrative Law Judge or to the Secretary of the Commission.

i. Proof of service shall be filed with each filed document.

14. One copy of any document or information filed with or supplied to the Public Utilities Commission or the Commission staff relative to any issue in these proceedings which is not otherwise served on the parties or their attorneys pursuant to Paragraph 13 hereof shall be served on the attorney of record for each party, or, if there is no attorney, upon the party.

DISCOVERY

15. All requests for information shall be made in writing to the person from whom the information is sought with a copy of the request mailed, faxed or e-mailed to all parties of record. No such request shall be provided to the Administrative Law Judge. The party responding to the information request shall provide the information requested to the requesting party within eight working days from receipt of the request. The information need not be supplied as a matter of course to all other parties. In the event the information cannot be supplied within such ten-day period, the responding party shall notify the requesting party, in writing, within five days of the request to work out a

schedule of compliance with the requesting party. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon Motion of a party.

16. Further discovery may be had herein in accordance with Minnesota Rules, parts 1400.6700 - 1400-6900.

PREFILED TESTIMONY

17. Prefiled direct, rebuttal and surrebuttal testimony shall not be bound into the record but shall be received as an exhibit to the record. Prefiled testimony not offered into the record shall be considered withdrawn and the witness may not be cross-examined concerning the withdrawn testimony. Except for cause shown, all revisions or corrections to any prefiled testimony shall be made in writing and served upon the Administrative Law Judge and the parties no later than five days prior to commencement of the evidentiary hearing.

ORDER OF TESTIMONY

18. Testimony in the evidentiary hearing shall be offered in the following order: Applicant, DOC, OAG/RUD, Northern, LGI Group, and any other Intervenor in the order of their intervention, and finally,. Cross-examination of the witnesses shall be conducted by the parties in the same order; provided, however, that parties shall not cross-examine their own witnesses. Except for cause shown, any new affirmative matter that is not offered in reply to another party's direct case shall not be offered in rebuttal or surrebuttal testimony and exhibits; provided, however, that the parties may raise in rebuttal or surrebuttal testimony affirmative matters in response to statements made by members of the public at the public hearings whether or not the issue was previously a part of that party's direct case.

19. No later than five days prior to the commencement of the evidentiary hearings herein, each party shall submit to the Administrative Law Judge, the Commission and the other parties, a list of that party's witnesses and the order in which those witnesses will appear, indicating, if necessary, any day certain for testimony known to the party calling the witness. The final order of testimony will be as established by the Administrative Law Judge.

20. At the public hearings herein members of the public shall be permitted to question the Company as well as any Intervenor present. The Company and Intervenor present are expected to respond to the public's questions. Statements made by members of the public may be considered substantive evidence in the discretion of the Administrative Law Judge.

EXAMINATION OF WITNESSES

21. Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party.

22. Except for cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party states in writing its objection with particularity to the Administrative Law Judge and serves a copy of such objections on the Commission and all other parties no later than five days prior to commencement of the evidentiary hearings. If an objection is made by a party, the party shall be permitted to lay further foundation for the objection through cross-examination of the witness. Any prefiled testimony which is not objected to shall be admitted during the evidentiary hearings without the necessity of laying a foundation for the testimony.

MISCELLANEOUS

23. In the unusual case where the attorney for a party believes that an exhibit should not be disclosed to the opposing parties prior to oral examination, he or she may present a copy of the exhibit to the Administrative Law Judge with a brief memorandum of explanation in support and circulate copies of the exhibit to the other parties at the time of cross-examination.

24. Parties are encouraged to stipulate evidence not in dispute and to narrow the scope of contested issues to the matters actually in dispute. All stipulations will be subject to public testimony to be received, acceptance by the Administrative Law Judge, and review by the Commission, which shall include the opportunity for the Commission or its staff to examine any witness on the record irrespective of the existence of a stipulation between the parties with respect to such testimony.

25. This Order is effective immediately and may be modified by the Administrative Law Judge for cause.

Dated this ____ day of October, 1999

Allan W. Klein
Administrative Law Judge

[\[1\]](#) LPI Group consists of Eveleth Mines, LLC, Hibbing Taconite Joint Venture, Ispat Inland Mining Company, LTV Steel Mining Company, National Steel Pellet Company, Northshore Mining Company, and the Minntac Mine of USX Corporation.